



Entered on Docket
June 03, 2009

Hon. Bruce A. Markell
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

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In re:

CONSOLIDATED FOOD SERVICES, INC.,

Debtor.

BK-S-09-11927-BAM

Chapter 7

OPINION REGARDING AFFIDAVITS

This matter came for hearing on an Order to Show Cause on April 29, 2009 (dkt. #43). During the hearing, counsel moved for admission of the affidavits of Sean Claggett, Ron Hoy, and Arnulfo Castro-Silva, which were filed the day prior to the hearing. Hans Johns was given two weeks to review the declarations and file his objections, if any. Mr. Johns timely filed his objections (dkt. #66). The court stated that if an objection was timely filed, the court would consider it and enter a ruling on the admissibility of the affidavits (dkt. #70, p. 75). Further, the court stated that at the conclusion of the two week period, the matter would be deemed submitted and no further affidavits or declarations would be taken. *Id.*

Upon review of the pleadings and papers on file, the court orders that:

1. The affidavits of Sean Claggett, Ron Hoy, and Arnulfo Castro are admitted;
2. The declaration of Sean Claggett in Response to Hans Johns Objection to Declarations of Sean Claggett, Ron Hoy and Arnulfo Castro-Silva (dkt. #72) shall be stricken on the

grounds that it is untimely filed;¹ and

3. The declaration of Hans Johns in Response to Declaration of Sean Claggett (dkt. #74) shall be stricken on the grounds that it is untimely filed.

IT IS SO ORDERED.

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¹In addition to being untimely filed pursuant to the court's instructions, this declaration is also procedurally improper as it includes requests for relief (dkt. #72 at ¶¶ 8-9). Further, in this circuit, bankruptcy courts are not "courts of the United States" for the purposes of 28 U.S.C § 1927, and thus this court does not have the power to find Mr. Johns a vexatious litigant. *In re Perroton*, 958 F.2d 889, 891 (9th Cir. 1992) (citing *In re Memorial Estates*, 116 B.R. 108, 100 (Bankr. N.D. Ill. 1990)).